

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTOINE DESHAWN BARNES,

Petitioner,

v.

NINTH CIRCUIT JUDGES, et al.,

Defendants.

No. 1:23-cv-00691-ADA-HBK (HC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
PETITION FOR WRIT OF HABEAS
CORPUS

(ECF No. 6)

Petitioner Antoine Deshawn Barnes is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 6, 2023, the Magistrate Judge issued findings and recommendations, recommending that the Court dismiss the petition due to Petitioner's failure to state a cognizable claim and failure to exhaust. (ECF No. 6.) Petitioner filed timely objections on June 20, 2023. (ECF No. 7.) To the extent discernable, Petitioner's objections restate the claims he asserted in his petition. Petitioner also appears to contend, without providing proof of any filing in the California Supreme Court, that he properly exhausted his state court remedies. (*Id.* at 2–3.)

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a de novo review of the case. Having carefully reviewed the entire file, including Petitioner's objections, the Court finds the findings and recommendations to be supported by the record and

proper analysis.


Having found that the petitioner is not entitled to habeas relief, the Court now turns to whether a certificate of appealability should issue. A petitioner seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's denial of his petition, and an appeal is only allowed in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003); 28 U.S.C. § 2253. Where, as here, a court denies habeas relief on procedural grounds without reaching the underlying constitutional claims, the court should issue a certificate of appealability only “if jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). In the present case, the Court finds that reasonable jurists would not find the Court's decision to dismiss the petition debatable or wrong. Therefore, the Court declines to issue a certificate of appealability.

Accordingly,

1. The findings and recommendations issued on June 6, 2023, (ECF No. 6), are adopted in full;
2. The petition for writ of habeas corpus, (ECF No. 1), is dismissed;
3. The Court declines to issue a certificate of appealability; and
4. The Clerk of Court is directed to close the case.

IT IS SO ORDERED.

Dated: August 17, 2023


UNITED STATES DISTRICT JUDGE